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International Court of Justice

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24 May

H0915-0002

OFFICAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION AP* POINTED BY THE INTERNATIONAL MILITARY TRIBUANL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRI-BUNAL DATED 13 MARCH 1946.

FRIDAY, 24 May 1946.

COMMISSIONERS:

Captain Joseph Tubridy
M. Martin- Havard.

THE GESTAPO

(The Commission convened at 1620 hours)

DR. GUENTHER JOEL, a witness, took the stand and testified as follows:

BY CAPTAIN TUBRIDY: Would you step forward please and raise your right hand and repeat the oath. I swear by God the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

THE WITNESS: Yes.

BY DR. JOSEF WEISGERBER (Assistant counsel for defendant Gestapo):

Q Are you the witness Dr. Guenther Joel?

A Yes.

DR. WEISGERBER: In the document the surname of the witness has been underlined incorrectly. His Christian name is Guenther, which is underlined in the document. His surname is "Joel".

BY DR. WEISGERBER:

Q Are you a lawyer?

A Yes.

Q Tell us any information about your SS and Party membership?

A I entered the Party in May 1933, and I received a rank in the SS in 1938, becoming an honorary member of the SD.

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Q Give us a brief representation of your career.

A I graduated from high school, and then I studied law at the Universities of Gottingen and Marburg.

Q It is sufficient if you mention your final examination, and your first employment as a lawyer.

A The assessor's examination in Berlin, and I was then employed as an assessor in Public Attorney's office in Kassel.

Q In which department did you work with the public prosecutor office in Kassel?

A From 1931 on the political department of the prosecutor's office in Kassel.

Q And in 1933 you left your position in Kassel?

A In August 1933 I was called into the Prussian Ministry of Justice as an auxiliary worker.

Q You were employed as an assistant into the department?

A As an assistant in the department that concerned itself with the Goering Amnestie.

Q When you were working during the Amnesty pardon, did you also concern yourself with breaches of law against parties and organizations?

A Yes, I was concerned with these penal matters.

Q Did these breaches of law committed by members of the National Socialist Party receive amnesty without consideration of whom the parson was?

A No, if these offenses had begun by reason of the National Socialist revolution, or in connection with the National Socialist revolution.

Q If in any of these individual cases it was shown that an individual concerned had a certain tendency towards committing crimes, was amnesty also offered in such cases?

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A No. If purely cirminal activity was proved, the public prosecutors were ordered to go through with the case.

Q What did you do later?

A My work later concerned just the penal matters concerning members of the National Socialist Party and its formations.

Q Was this a department in the Reich Ministry of Justice just for these matters?

A Yes, it had been found necessary to institute such a department.

Q To what extent and what manner did the Gestapo play a part in the prosecution of these people who had committed crimes and offenses as members of the NSDAP, and its formation?

A First of all the State Police appeared here as the Prussian State Police, and then later as the Reich State Police, and that these police had taken over the Department 1-A of the office.

M.M. Monnerray: Which office?

THE WITNESS: Of the Police President Office.

BY DR. WIESGERBER:

Q That means that members of the Gestapo were used in penal matters concerning members of the NSDAP, and its formation?

A Yes, for political crimes offenses were worked in by the Gestapo, and not by the criminal police.

Q Can you mention any outstanding cases of cooperation between- or of what ratio between the Gestapo and the Reichsministry of Justice?

A Yes, I can mention cases in which the Gestapo did the work in the important cases.

Q Have you any such cases that you can mention now offhand?

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A Yes, I might refer to a case in Nurnberg concerning penal matters concerned with Gauleiter Streicher. The President of the police here who was at the same time the chief of the Gestapo here carried out the work concerned with this, but because the local offices were restricted the case was transferred to offices in Berlin. I might say I was present here, and took part in the investigation. These investigations lead to Streicher's removal.

Q Do you know of any other prominent cases?

A There are so many cases, that it is very difficult to make a selection of all these many cases that I have considered within the last ten years, but there are also cases in which officials of the Gestapo, and these were concerning cases against whom action was taken.

Q Have you ever found that officials of the Gestapo within the scope of their professional duties carried on illegal activities?

A As far as I can tell the Gestapo was acting for the Ministry of Justice within the scope of the penal jurisdiction of the code.

Q Did you consider the "Protective arrest" an illegal measure?

A "Protective custody" was based on an order by the Reich government 28 November 1933, and for us had had its legal foundation in this.

Q Did not the Reich Ministry of Justice dissolve the socalled "Wild" concentration camps in 1934?

A Yes, I myself took part in dissolving the camps that the SS and the SA had established on their own accord. One in Stettin, Vulkan Werft, and the other Wuppertal. I should first like to mention that actionwas taken against the organization concerned.

Q Did not the Gestapo organize the concentration camps - "Wild" concentration camps?

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CAPTAIN TUBRIDY: What do you mean by "Wild"? - unauthorized? You use the word "Wild".

THE WITNESS: They were camps which were established without any authorized orders of the Reichministry.

M. MONNERRAY: Might we know first which were the functions of the witness after 1933. We know that he had been called by the Ministry of Justice of Prussia, and was dealing with the Amnesty, but after that I do not know at all what was his functions in the Gestapo.

CAPTAIN TUBRIDY: Could you give us the positions and occupations which were held by this witness. The positions he held in the years in which he held those positions.

BY DR. WEISGERBER:

Q Tell us about your professional career in the Reichsministry of Justice?

CAPTAIN TUBRIDY: Could you please ask him in this form, what positions he held subsequent to 1933; what organization he held, and that and what organizations he held in the positions in?

THE WITNESS: From 1933 to 1943 I was specialist in the Reichsministry of Justice, also concerning the Department of which I had before spoken, and in 1944 I became General Attorney of State in Westphalia - Public Attorney General in Westphalia.

BY DR. WEISGERBER:

Q And you were always in the same department, that is the department that concerned itslef with fighting against the bad conditions within the Party, and its organizations?

A Yes.

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Q Witness, you have not answered my question as to whether the camps that the Gestapo erected in concentration camps, whether they were unauthorized or authorized?

A There was never any official mention made of the erection of concentration camps in the Reichsministry of Justice, but we already knew that concentration camps existed.

Q The witness has still not answered my special question as to whether he knew that the Gestapo erected any concentration camps?

A I heard unofficially that Obergruppenfuehrer Eicke erected the concentration camps; that the State Police was in charge, and had jurisdiction over these concentration camps.

Q What did the leading officials know of the Reichsministry of Justice, know about what was called extermination camps?

A I learned of this term only after the end of the war.

MR MONNERRAY: I object to that, and to this question. The witness can only answer of his own knowledge, and not the knowledge through the higher Ministry of Justice.

COLONEL GRIFFITH JONES: I might add one thing further, that evidence not of his own knowledge is irrelevant and not within the disposal of the rule.

DR. WEISGERBER: I should like to point out that the witness was the Ministerial Director in the Reichsministry of Justice, and as such had a high position himself in the ministry.

CAPTAIN TUBRIDY: The point is did he have personal knowledge of towards this matter on which you are directing your questions.

DR. WEISGERBER: Then I should put my question this way. Did you in your capacity as Ministerialrat ever hear of the existence of

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extermination camps, and what happened in them.

COLONEL GRIFFITH JONES: I am sorry. I object again. Evidence as to the individual knowledge is inadmissible, as the witness is giving it.

DR. WEISGERBER: I withold my question. No further questions.

CAPTAIN TUBRIDY: Any cross examination.

CROSS EXAMINATION

BY COLONEL GRIFFITH JONES:

Q You mentioned in your evidence that you had taken part in the dissolution of the two concentration camps set up by the SS and the SA?

A Yes

Q Those were presumably unauthorized concentration camps, were they?

A Yes

Q How many concentration camps of the SS and SA were set-up without authority?

A I cannot say.

Q Were there more than two which you personally helped to dissolve?

A I believe so, yes.

Q And who were the people that were put into those concentration camps set up by the SS and the SA?

A Sofar as I know, these ~~XX~~ two camps where I took part in the investigation of political offenses.

Q And had those political offenses been tried by any recognized courts of justice?

A No, that is why we took penal action against the people who had brought them or had taken them into these camps.

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Q How many prisoner were there in those two camps?

A I cannot say.

Q Can you give me the approximate figures?

A No, I am sorry. One of these camps was the factory building in Stettin, and the other factory building in Buchenton.

Q If they had not been tried for any offense, who had actually seized them and put them into the concentration camp?

A Sofar as Stettin was concerned, these people were arrested, or seized by the SS STurmfuehrer, and placed under protective custody.

Q And the prisoners of the other caps?

A The prisoners of the other camps were alleged to be communists and they had been apprehended by SS and SA.

Q Did the SS and the SA provide the guards, and other things for these concentration camps they set up?

A Yes, they were the people who put these prisoners into the camp. They placed the guards at their disposal and also the personnel.

Q Do you know from where the funds came to run these concentration camps, and to pay the guards, and to provide food and so on?

A No, I cannot say, but by no means on public funds.

Q No I don't want to ask anything further on that. You have told us as I have understood, say, that the Gestapo acted for the Ministry of Justice within the scope of the penal code, is that right?

A Yes.

Q Dr.Gurthner was the Minister of Justice, was he not, in 1935?

A Yes.

Q Do you know anything about his Department Personnel?

A Dr. Gurthner? Yes, I was personally acquainted.

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Q I am sorry, let me put the question in a different way. Have you ever seen or heard of a letter that he wrote on 14 May 1935 to the Reich Prussian Ministry of Interior complaining of the treatment of concentration camp prisoners by the Gestapo?

A I know the letters were written. These letters were passed by action that we took against the guard who had carried out political orders from mal treatment.

Q Let me read to you a few lines of this letter. It is PS-3751, I am sorry I cannot give you the US number, but I will find it by tomorrow morning. It is dated 14 May 1935, "Enclosed you will find copy of a report of the inspector secret state police, dated 28 March 1935. This report gives me an occasion to state my fundamental attitude towards the question of the beating of internees. The numerous instances of ill treatment which have come to the knowledge of the Administration of Justice, and can be divided into three different courses. For instance, ill treatment of prisoners." And then he goes on to give the three different courses. Beating as a disiplinary punishment in concentration camps; Ill treatment mostly of political internees, in order to make them talk; ill treatment of internees arising out of sure fun, or for drastic murders. Do you consider that the Gestapo were acting within the scope of the penal code in ill treating internees out of sure fun, or for drastic murders in order to make them talk?

A By no means in such cases we checked penal action against those people who had committed these offenses.

Q Then he goes on to deal with the unsatisfactory nature of the statements obtained as a result of ill treatment. He says this was the results of, and that the courts are coming to treat such statements as

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worthless, and he says as follows: "This was the result of their getting confessions in the course of numerous proceedings. That the confessions and statements made before the police were exhorted by the ill treatment. However, I can not follow the statement obtained in the attached report, inasmuch as beating of communists held in custody is regarded as an indispensible police measure, for a more effective destruction of communist activities. These explanations of the Gestapo office show precisely that the methods used up to now had not been successful in comparison with the political communist machine." Then he goes on and cites an example, which I shall not read now, of the actual tortures committed in certain concentration camps. Was such activity by the Gestapo widespread that such reports, and such protests had to be made by the Ministry of Justice to the Ministry of the Interior.

A A number of reports were received by us concerning these treatments, and they were followed up by us. I remember particularly a big case in Berlin where officials and secretaries of the criminal police were concerned, and punished, and I believe that there was an ultimate outcome of that case.

DR. WEISGERBER: I find that I should like to leave, as we are scheduled to have a meeting at 1700 hours, and we have to go there.

CAPTAIN TUBRIDY: Yes, do you have any further questions.

DR. WEISGERBER: I shall have some again tomorrow morning.

CAPTAIN TUBRIDY: Very well. ~~Continue~~ the hearing is adjourned to tomorrow morning.

(The Commission adjourned until 27 May 1946 at 1000 hours)

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The foregoing is a true and correct transcript of the testimony of Dr. Guenther Joel, taken on 24 May 1946.

s/ Gallagher
Reporter (~~pp 1 - 10~~)

Reporter (pp)

Reporter (pp)

CERTIFIED TO:

Joseph F. Jahnke
Commissioner

Commissioner